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Fiscal Note

Drafting Number: LLS 23-0483
Prime Sponsors: Sen. Rodriguez
Rep. Woodrow

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Bill Status: Senate Local Government
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Bill Topic: **PUBLIC EMPLOYEES' WORKPLACE PROTECTION**

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - Statutory Public Entity

The bill establishes certain rights for public employees and associated enforcement procedures. The bill increases state revenue and expenditures, and potentially increases costs for certain local governments and statutory public entities, on an ongoing basis.

Appropriation Summary: For FY 2023-24, the bill requires an appropriation of \$457,239 to the Colorado Department of Labor and Employment.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under SB 23-111

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	Cash Funds	\$457,239	\$440,468
	Centrally Appropriated	\$75,195	\$80,342
	Total Expenditures	\$532,434	\$520,810
	Total FTE	4.2 FTE	4.5 FTE
Transfers		-	-
Other Budget Impacts		-	-

Summary of Legislation

The bill specifies that public employees have the right to:

- discuss or express views on workplace issues and employee rights and representation;
- engage in protected, concerted activity for the purposes of mutual aid or protection;
- participate in the political process while off-duty without discrimination, intimidation, or retaliation;
- speak with members of the public employer's governing body about conditions of employment; and
- form or join, or refrain from participating in, an employee organization.

A public employer must not discriminate against an employee for engaging in the rights listed above, interfere with the administration of an employee organization, or discriminate against an employee who has joined an employee organization or has filed a complaint related to the bill.

Definition of public employer. Under the bill, a public employer includes the following:

- a municipality or a city and county;
- a county with a population of less than 7,500;
- a district, business improvement district, or special district that is a political subdivision of the state, a county, or municipality;
- the Colorado School for the Deaf and the Blind;
- a state institution of higher education;
- the Office of the State Public Defender;
- the University of Colorado Hospital Authority and Denver Health and Hospital Authority;
- Joint Budget Committee Staff (JBC), Legislative Council Staff (LCS), and the staff of the Chief Clerk of the House of Representatives and Senate Services Staff;
- majority and minority caucus staff for the House of Representatives and the Senate;
- a Board of Cooperative Services (BOCES); and
- firefighters.

It does not include a political subdivision of the state that operates a mass transportation system. The bill specifies that the State Board of Education may not waive the bill's provisions for a charter school, or an innovation school, zone, or district.

Enforcement. An aggrieved party must file a claim for a violation within six months of knowing about the violation. The Division of Labor Standards and Statistics (DLSS) in the Colorado Department of Labor and Employment (CDLE) is charged with enforcing the rights under the bill and adjudicating unfair labor practices. A party may appeal CDLE's decision to the Colorado Court of Appeals, whose review must be limited to whether CDLE exceeded its jurisdiction or abused its discretion.

Assumptions

The fiscal note assumes that the bill does not require public employers to negotiate or collectively bargain with employee organizations. It also assumes that the bill does not apply to state executive branch agencies and employees or any public entity not listed in the bill. If collective bargaining is required and state executive branch employees are covered, costs will be higher than estimated.

State Revenue

The bill increases state revenue to the Wage Theft Enforcement Fund from any fines collected. Overall, any revenue is expected to be minimal, as the Colorado Wage Act encourages the DLSS to waive most fines assessed against employers if the employer complies with the law, and DLSS has never levied a fine for an unfair labor practice. Any revenue from court filing fees is also expected to be minimal.

State Expenditures

The bill increases state expenditures in CDLE by \$532,434 in FY 2023-24 and \$520,810 in FY 2024-25, paid from the Employment Support Fund. It also increases workload for Judicial Department, and potentially costs for the Legislative Department, institutions of higher education, Department of Education, and Office of the State Public Defender. Expenditures are shown in Table 2 and detailed below.

Table 2
Expenditures Under SB 23-111

	FY 2023-24	FY 2024-25
Department of Labor		
Personal Services	\$344,009	\$363,687
Operating Expenses	\$19,780	\$17,282
Capital Outlay Costs	\$33,350	-
Legal Services	\$57,100	\$57,100
Travel Costs	\$3,000	\$2,400
Centrally Appropriated Costs ¹	\$75,195	\$80,342
FTE – Personal Services	3.9 FTE	4.2 FTE
FTE – Legal Services	0.3 FTE	0.3 FTE
Total	\$532,434	\$520,810
Total FTE	4.2 FTE	4.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Labor. CDLE requires 3.9 FTE in FY 2023-24 and 4.2 FTE in subsequent years to handle complaints filed under the bill. The fiscal note assumes one complaint for every 3,800 employees, for a total of 75 complaints per year, and that each complaint will require work from a compliance investigator and an administrative law judge. A supervisor and program staff also will handle management of all complaints, outreach, questions and rulemaking. Standard capital outlay costs, operating expenses including software licenses, and staff travel costs are also required. Staff costs in the first year are prorated for a September 1, 2023, start date.

Department of Law. The bill requires 540 hours of legal services for rulemaking and general counsel for CDLE. Legal services are provided by the Department of Law at a rate of \$105.74 per hour; the required hours equate to 0.3 FTE.

In addition, the Department of Law may incur additional costs to provide legal counsel for institutions of higher education, due to the number of employees across institutions that are covered by the bill. The exact cost cannot be estimated, as it depends on where institution complaints may occur, and the associated workload. As a result, any additional legal services hours for institutions of higher education will be requested through the annual budget process.

Department of Personnel and Administration. Because the Department of Personnel and Administration (DPA) manages the employee benefit plans for institutions of higher education, legislative staff, the Colorado School for the Deaf and the Blind, and the Office of the State Public Defender, the DPA may have workload and costs to the extent that state agencies covered by the bill choose to engage with employee organizations acting on behalf of employees. The fiscal note assumes that state agencies are not required to engage with employer organizations; as a result, the costs are assumed to be accomplished within current appropriations. Any additional resources needed will be requested through the annual budget process.

Specified state agencies. The bill increases costs by an indeterminate amount for any state entity included as a public employer in the bill to respond to complaints. This includes state institutions of higher education; LCS, OLLS, and House and Senate staff in the Legislative Department; the Colorado School for the Deaf and the Blind in the Department of Education; and the Office of the State Public Defender. The fiscal note assumes that this workload will not require a change in appropriations and that any additional resources needed will be requested through the annual budget process.

Judicial Department. The bill increases workload in the trial courts in the Judicial Department by a minimal amount to handle any appeals of CDLE decisions. No change in appropriations is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Local Government and Statutory Public Entity

Similar to the state agency impacts listed above, the bill increases costs for municipalities, counties with a population of 7,500 or less, special districts, and the Denver Health and Hospital Authority to respond to any complaints filed for violations of the bill's provisions. Cost will vary among each public employer depending on the number of complaints received.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires an appropriation of \$457,239 from the Employment Support Fund to the Colorado Department of Labor and Employment, and 3.9 FTE. Of that amount, \$57,100 is reappropriated to the Department of Law, with an additional 0.3 FTE.

Departmental Difference

The CDLE requests General Fund be used to enforce the bill's labor standards. The federal Department of Labor has determined that certain spending from the Employer Support Fund is not in compliance with federal law. Until the fund is back into compliance, the CDLE prefers not to make additional expenditures from this fund. The fiscal note assumes that these administrative costs constitute allowable uses of funds in the Employer Support Fund.

State and Local Government Contacts

Counties	Education	Higher Education
Joint Budget Committee Staff	Judicial	Labor
Law	Legislative Council Staff	Legislative Legal Services
Personnel	Public Defender	School Districts
Special Districts		